THE HON'BLE SRI JUSTICE C.V. RAMULU

Friday, 24th day of August,2007

W.P.No.7277 of 2004

Between:-

Surapareddy Adilakshmi … Petitioner

and

The Authority under Minimum Wages Act-cum-Assistant Commissioner of Labour, Vijayawada and others … Respondents

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.7277 of 2007

ORAL ORDER:

This Writ Petition is filed seeking a Certiorari to call for the records relating to the Order dated 5-8-2003 passed by the 1st respondent in M.W. Case No.6 of 2002 and to quash the same as arbitrary and illegal.

It appears, petitioner filed a claim petition under Section 20(2) of the Minimum Wages Act,1948 (for short 'the Act') before the Authority under the Minimum Wages Act-cum-Assistant Commissioner of Labour, Vijayawada, Krishna District, claiming that she is entitled for the minimum wages as fixed by the Government under various G.Os issued from time to time.

Respondents 2 and 3 herein submitted before the Authority that the petitioner was never an employee nor engaged by them in their individual capacity. Petitioner can have no grievance nor any claim against them. In other words, the petitioner has no cause of action against them. However, after an elaborate consideration of the matter, it was held by the Authority that the burden to prove the *bona fides* of the claim always lies upon the claimant. Filing the claim after passage of 11 years 8 months and totally ignoring all the fundamental requisites and realities on the part of the petitioner is deplorable. Either ignorance of law or not knowing the law are no excuses, especially

when the petitioner has engaged a counsel right from the beginning of the case. In the absence of any evidence, the Authority is unable to consider the maintainability of the claim and thus the Minimum Wage Case was dismissed. Aggrieved by the same, the present Writ Petition is filed.

Sri M. Ram Mohan, learned counsel for the petitioner, strenuously contended that the delay of 11 years 8 months was condoned by the Authority and having condoned, went into the merits. But, it is unfortunate, again at paragraph-12, it recorded that the application was filed with an abnormal delay and, therefore, liable to be dismissed. In fact, as stated above, after condoning the delay, the matter was taken up as M.W. Case No.6 of 2002 and in the meanwhile I.A.No.1 of 2003 was filed for recalling P.W.1. That was dismissed and subsequently, the present order was passed saying that even otherwise, there is no evidence to show that the petitioner is entitled for minimum wages.

Learned counsel for respondents 2 and 3 supported the Order passed by the Authority and stated that absolutely, no evidence was placed before the Authority to come to a different conclusion than what it was recorded in the impugned Order. Therefore, no interference can be made by this Court with the impugned Order under Article 226 of the Constitution of India.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the impugned Order and other material made available on record.

It appears, the delay was, in fact, condoned and thereafter, the matter was taken up on file as M.W.Case No.6 of 2002. Even the 3rd paragraph of the Order says that there was a delay of 11 years 8 months, which was condoned merely on sympathetic consideration,

not to throw out the main application on the ground of delay and not to deprive the petitioner to reveal the merits and rights for the claim. Having said so, unfortunately, the Authority at paragraph-12 recorded a finding that there was abnormal delay and on that ground also, the claim petition is liable to be dismissed. It may require to remind the Authority that under the Act, as soon as an application is filed, it is obligated to find out what are the G.Os issued by the Government from time to time fixing the minimum wages for the schedule employment. Instead of doing that, on its own, the Authority has passed a funny order saying that there is no evidence placed before it for the purpose of claiming minimum wages. It is unfortunate that such an Order was passed by the Authority. Firstly, after having condoned the delay in filing the application, it has again rejected the case on the very same ground and secondly, without enquiring into the matter has dismissed the case, merely saying that there was no evidence placed before it. In view of the above, I am of the opinion that the Authority has not considered the case as per law. Therefore, the impugned Order dated 5-8-2003 passed in M.W. Case No.6 of 2002 by the 1st respondent, is liable to be set aside and is accordingly set aside. The matter is remanded to the Authority under the Act for fresh disposal, as per law, after giving opportunity to both the parties, within a period of six months from the date of receipt of a copy of this Order.

The Writ Petition is allowed to the extent indicated above. No order as to costs.

24-8-2007

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